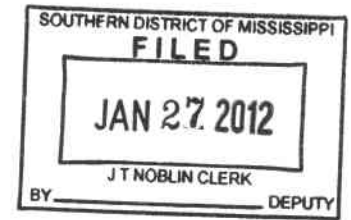


IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION



CHARLIE CLAY, III,

Plaintiff(s);

vs.

CASE NO. 1:11cv513 LG-JMR

HARRISON COUNTY
MOTOR VEHICLE FOR HIRE COMMISSION
AND UNNAMED OFFICERS AND AGENTS
THEREOF,

Defendants.

AMENDED COMPLAINT

COME NOW the Plaintiff, CHARLIE CLAY, III, *pro se*, and moves the Court for a permanent injunction to enjoin defendants' enforcement of various unconstitutional administrative regulations and administrative procedures.

Nature of the case

This is a civil rights action wherein Plaintiff seeks injunctive relief against the Harrison County Motor Vehicle for Hire Commission ("HCMVHC"), a newly formed administrative body, and various public officials. Plaintiff seeks to protect and vindicate individual rights secured by the Fifth and Fourteenth Amendments of the U.S. Constitution pursuant to 42 USC §1983. Plaintiff further seeks redress of various state and federal statutory violations by Defendants.

Parties

Plaintiff Charlie Clay, III, is an adult resident citizen of Biloxi, Harrison County, Mississippi who has been engaged in the lawful operation of an independent taxicab service on a continuous basis since 2006;

HCMVHC is newly-established administrative agency authorized pursuant to House Bill 1737 (signed into law May 12, 2010). HCMVHC has mandated that its proposed rules and regulations will become effective January 1, 2012.

Additional unnamed Defendants are various officers, officials, agents, and representatives of HCMVHC with direct involvement in the promulgation and implementation of proposed HCMVHC regulations at issue herein;

Jurisdiction

1. This Court has jurisdiction over Plaintiff's Constitutional and Sherman Act claims pursuant to 28 U.S.C. §§1331(a), 1343(a)(3), and 1343(4).
2. This Court has pendant jurisdiction over Plaintiff's concurrent state claims law pursuant to 28 U.S.C. § 1367(s) as they arise out of a common nucleus of operative fact as Plaintiff's federal claims.
3. This Court has authority to declare Plaintiff's rights and grant all requested relief in addition to any other which it may deem just and proper pursuant to 28 USC §§ 2201 and 2202.

4. This Court may award all court costs and attorney's fees pursuant to 42 USC 2000e-5(g), 42 USC 1981, 1983, and Fed. R. Civ. Pro. 54.

Venue

5. Venue is proper in this Judicial District and Division pursuant to 28 USC § 1391(b), as all events and developments giving rise to Plaintiff claims occurred or will occur within Harrison County, Mississippi.

Statement of the Facts

6. The Harrison County Motor Vehicle for Hire Commission ("HCMCHC") promulgated comprehensive administrative regulations pertaining to all licensed common carriers and providers of public transportation. These include taxicab operations as operated by the instant Plaintiff. (attached hereto as "Exhibit A");

7. HCMVHC officials failed to follow the mandates of Mississippi Administrative Procedure Act as codified at MCA 25-43-1.101 through 106 prior to implementing the proposed regulations at issue herein.

8. HCMVHC rules § 11a (Exhibit A-1) pertaining to permit suspensions and revocations violates drivers' Fifth and Fourteenth Amendment Due Process rights in the following ways:

9. §§ 11A(2) and (10) constitute legally-impermissible prior restraints on First Amendment rights to free speech, free association, and pursuit of livelihood;

10. § 11A(2)'s prohibition against “disturbing the peace” is vague, as it does not define specific disorderly or disruptive act(s) that trigger permit suspension or revocation;

11. Plaintiff CHARLIE CLAY, III lodged a formal complaint with HCMVHC about the impermissible vaguity and over breadth of said provisions via Certified Letter on or about September 29, 2011 (attached hereto as Exhibit “B”). Despite this, HCMVHC has refused to modify, revise, or revoke said regulatory provisions;

12. The HCMVHC's fee schedule is overly burdensome for smaller independent taxicab operators. Imposition of these exorbitant regulatory and licensure fees have a high risk of creating an oligopoly in local public transit services (attached hereto as Exhibit “C”).

13. Said fees and regulations referenced above are contrary to the public interest by restraining market competition and resulting in many consumers' out pricing from private transportation service markets;

14. HCMVHC's proposed taxicab inspection procedure which requires approval from a directly competitive entity is collusive and contravenes current provisions of state and federal antitrust statutory and common law provisions;

15. All the existing and proposed actions cited in Paragraphs 4-6, *supra*, violate the Sherman Antitrust Act, 15 U.S.C. § 1, *et. seq*;

Prayer for Relief

WHEREFORE, Plaintiff prays for a permanent injunction to enjoin defendant HCMVHC from enforcing the regulatory provisions referenced above. Plaintiff further prays for a permanent injunction compelling HCMVHC to cease and desist from any future promulgation of similarly vague and overly broad regulation(s).

Plaintiff further prays for any other relief which this Court may deem just, necessary, appropriate, and proper at law and in equity.

Respectfully submitted,



Charlie Clay III
Plaintiff *pro se*

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281 ½ Nixon Street
Biloxi, MS 39530
Tel.# (228) 209-2906

Mailing Address:
P.O. Box 832
Biloxi, MS 39533

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a true and accurate copy of the foregoing Motion to be served on Defendants via U.S. Mail First class postage prepaid

Addressed to:

HARRISON COUNTY MOTOR VEHICLE FOR HIRE COMMISSION AND
UNNAMED OFFICERS AND AGENTS THEREOF

14035-G Airport Road
Gulfport, MS 39503

and

Office of Mississippi Attorney General

MS Attorney General's Office
P.O. Box 220
Jackson, MS 39205
MS Attorney General's Office
Walter Sillers Building
550 High Street, Suite 1200
Jackson, MS 39201

ON this 27th day of January, 2012.



Charlie Clay, III,
Plaintiff *Pro Se*

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